

## REMARKS

Applicants are submitting this Preliminary Amendment concurrently with a Request for Continued Examination pursuant to 37 C.F.R. §1.114. On November 20, 2006, Applicants submitted a substantially identical Amendment under 37 C.F.R. §1.312 (the “Rule 312 Amendment”). Said Rule 312 Amendment was entered into the application by Examiner Smithers pursuant to a “Response to Rule 312 Communication” mailed to Applicants on January 31, 2007. Subsequently, as memorialized in an Examiner-Initiated Interview Summary mailed to Applicants by the USPTO on March 1, 2007, Examiner Smithers advised Applicants’ attorney by telephone on February 26, 2007, that the Examiner’s response to the Rule 312 Amendment would be vacated because the decision by the Office of Petitions takes precedence over the Examiner’s action. The “decision” referenced by Examiner Smithers in said Interview Summary is a “Decision on Petition under 37 CFR 1.55” the USPTO mailed to Applicants on January 30, 2007. Subsequent interchanges with Legal Examiner Lin and the Office of Petitions have resulted in the Applicants submitting a related Amended Petition under 37 C.F.R. §1.55(c) and a Petition under 37 C.F.R. §1.78(a)(3) (together, the “Priority Claim Petitions”). Said Priority Claim Petitions were mailed and communicated by facsimile to the USPTO by Applicants on July 18, 2007.

For the reasons provided in remarks accompanying the Rule 312 Amendment and the Priority Claim Petitions, and summarized below, entry of the instant Preliminary Amendment, which does not introduce any new matter, is proper.

This Preliminary Amendment accomplishes three objectives:

1. Perfection of the claim of priority to Great Britain patent application 9703591.9 (hereinafter, “the ‘591 application”).
2. Express incorporation by reference of the ‘591 application into the instant application.
3. Clarification of the disclosure with respect to the continuity relationships among intermediary applications in the chain of prior applications.

This Preliminary Amendment is submitted to unambiguously recite on the face of the patent the priority claims to which Applicants are entitled, and the incorporation by reference information that was implicit in the specification as filed.

**1. The present application is entitled to the benefit of the ‘591 application’s filing date under 35 U.S.C. §119(a) and §120.**

As stated in the first paragraph of the original version of the present application as filed on August 17, 2001, the present application is a continuation of U.S. patent application 09/076,551, filed on May 12, 1998, which was then pending (it later issued as U.S. patent 6,317,832 on November 13, 2001). Accordingly, the present application is entitled under 35 U.S.C. §120 to the benefit of the priority date accorded to U.S. patent application 09/076,551. U.S. patent application 09/076,551, in turn, claims priority to U.S. patent application 09/023,057 filed on February 12, 1998, which was pending until it issued as U.S. patent 6,575,372 on June 10, 2003. U.S. patent application 09/023,057 claims priority to Great Britain patent application 9703591.9, filed February 21, 1997, as reflected on the face of U.S. patent 6,575,372, and in the first paragraph of patent application 09/023,057.

As stated in the paper mailed to the USPTO by Applicants on July 27, 2004 and received by the Office’s Technology Center 2100 on August 4, 2004, styled “AMENDMENT AND CLAIM OF PRIORITY,” the present application is likewise entitled to claim priority under 35 U.S.C. §119(a) and §120 to the ‘591 application, a certified copy of which was submitted with the July 27, 2004 paper. Because the present application was filed during the pendency of the 09/023,057 and 09/076,551 applications, the disclosures of which are substantially identical to the disclosure of the present application, and those applications properly claimed priority to the ‘591 application, the present application is likewise entitled to claim priority to the ‘591 application.

To perfect this claim and clearly inform the public of it, the specification itself is hereby being amended to reflect this claim. Because Applicants unintentionally failed to fully present this claim in a conventional form during the time period provided by 37 C.F.R. §1.55(a), Applicants filed the Priority Claim Petitions.

**2. Expressly incorporating the ‘591 application by reference introduces no new matter.**

The present application, as filed, expressly incorporated by reference, inter alia, United States patent application 09/023,057 filed on February 12, 1998. Application 09/023,057, in turn, expressly incorporated by reference the ‘591 application. As a result,

the present application impliedly incorporated the '591 application. For the avoidance of any doubt on this score, and to fully comply with the rule of In re de Seversky, 474 F. 2d 671 (CCPA 1973), the present amendment expressly incorporates by reference the '591 application.

**3. The remaining amendments to the first paragraph of the specification are mere clarifications and add no new matter.**

The present Preliminary Amendment to the specification resolves some minor grammatical ambiguities.

**Conclusion**

Applicants believe that the application, as amended, is now in condition for allowance of both claims remaining herein, claims 3 and 4. If the Examiner disagrees or believes that, for any other reason, direct contact with Applicants' attorney would help advance the prosecution of this case to finality, he is invited to telephone the undersigned at the number given below.

Respectfully submitted,

date of signature:

July 20, 2007



Edward J. Radlo  
Attorney of Record  
Reg. No. 26,793

SONNENSCHEIN NATH & ROSENTHAL LLP  
P. O. Box 061080  
Wacker Drive Station, Sears Tower  
Chicago, Illinois 60606-1080  
(415) 882-2402

cc: B. McKeon  
IP/T docket CH